

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAYMES ARTHUR GALLAGHER,

CASE NO. C22-5434 BHS

Petitioner,

ORDER

V.

UNITED STATES OF AMERICA,

Respondent.

13 This matter comes before the Court on Petitioner Jaymes Arthur Gallagher's
14 Motion for Extension of Time and for Appointment of Counsel, Dkt. 7.

15 Gallagher, a federal prisoner proceeding pro se, seeks habeas corpus relief
16 pursuant to 28 U.S.C. § 2255 and challenges his 2020 conviction on one count of
17 Possession of a Firearm in Furtherance of a Drug Trafficking Crime under 18 U.S.C.
18 § 924(c)(1)(A),¹ to which he pled guilty. Dkt. 1; *see also United States v. Gallagher*, 19-
19 cr-5389 BHS, Dkt. 65.

¹ Gallagher also pled guilty to one count of Conspiracy to Distribute Controlled Substances, but he challenges only his firearm conviction. See Dkt. 1.

1 As to Gallagher's request for appointment of counsel, no constitutional right to
2 counsel exists for an indigent plaintiff in a civil case unless the plaintiff may lose his
3 physical liberty if he loses the litigation. *See Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18,
4 25 (1981). In relation to a § 2255 petition, the court may appoint counsel. 28 U.S.C.
5 § 2255(g). Appointment of counsel is appropriate for "any financially eligible person
6 who . . . is seeking relief under [§ 2255]" if "the court determines that the interests of
7 justice" require such appointment. 28 U.S.C. § 3006A(a)(2)(B).

8 The Court concludes that justice does not require the appointment of counsel.
9 Gallagher asserts a straightforward argument that his conviction under 18 U.S.C.
10 § 924(c)(1)(A) should be vacated because he did not use his firearms in connection with
11 the distribution of controlled substances. *See* Dkt. 1. He has not established that counsel
12 is necessary to assist him in advancing this argument or for any other purpose. The Court
13 therefore **DENIES** Gallagher's Motion for Appointment of Counsel.

14 Gallagher's Motion for Extension of Time, however, is **GRANTED**. Gallagher's
15 reply to the Government's response to his Motion to Vacate shall be due no later than
16 **November 4, 2022**. The Clerk shall renote the Motion to Vacate, Dkt. 1, for
17 consideration on the Court's November 4, 2022 calendar.

18 **IT IS SO ORDERED.**

19 Dated this 4th day of October, 2022.

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BENJAMIN H. SETTLE
United States District Judge